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DRG-INTERNATIONAL, INC.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DRG-INTERNATIONAL, INC.,
Plaintiff,
v.
BACHEM AMERICAS, INC. and
PENINSULA LABORATORIES
INTERNATIONAL, INC.,
Defendants

Case No.: _____

Hon. Judge _____

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

Complaint filed: 9/16/15

1 Plaintiff DRG INTERNATIONAL, INC. seeks relief against Defendants
2 BACHEM AMERICAS, INC. and PENINSULA LABORATORIES
3 INTERNATIONAL, LLC as follows:

4 **INTRODUCTION**

5 1. This is an action for patent infringement brought by DRG
6 INTERNATIONAL, INC. (hereinafter “DRG”), a New Jersey corporation with its
7 principal place of business at 841 Mountain Avenue, Springfield, New Jersey
8 07081, and which is the exclusive owner of United States patents covering methods
9 and kits for the detection of hepcidin in humans, against Bachem Americas, Inc.
10 (hereinafter “Bachem”) and Peninsula Laboratories International, Inc. (“Peninsula”)
11 (collectively, “Defendants”) for infringement, contributory infringement, and
12 inducement of infringement of those patents. DRG, by its attorneys, for its
13 Complaint against Defendants alleges that:

14 **THE PARTIES**

15 2. Plaintiff DRG is a New Jersey corporation with its principal place of
16 business at 841 Mountain Avenue, Springfield, New Jersey.

17 3. On information and belief, defendant Bachem is a California
18 corporation with its principal place of business at 3132 Kishiwa Street, Torrance,
19 California.

20 4. On information and belief, defendant Peninsula is a California
21 corporation with its principal place of business at 305 Old Country Road, San
22 Carlos, California.

23 **JURISDICTION AND VENUE**

24 5. This cause of action for patent infringement arises under the patent
25 laws of the United States, Title 35, United States Code.

26 6. This Court has subject matter jurisdiction over this action pursuant to 28
27 U.S.C. §§ 1331 and 1338(a), because this case involves patent infringement and arises
28 under the laws of the United States, 15 U.S.C. § 1051, *et seq.*

COMPLAINT OF DRG-INTERNATIONAL, INC.

7. This Court has personal jurisdiction over Bachem and Peninsula because Bachem and Peninsula have each committed acts of infringement within this District, Bachem resides in this District, Bachem and Peninsula conduct business in this District and Peninsula operates a website allowing California residents to directly purchase infringing products by selling antibodies and kits for the detection of hepcidin in humans.

8. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (c) and § 1400(b).

BACKGROUND

9. DRG manufactures and markets kits for the detection of hepcidin in humans.

10. On January 22, 2008, the U.S. Patent and Trademark Office issued U.S. Patent No. 7,320,894, titled “Diagnostic Method for Diseases by Screening for Hepcidin in Human or Animal Tissues, Blood or Body Fluids and Therapeutic Uses Therefor” (“the ’894 patent”). A true and correct copy of the ’894 patent is attached hereto as Exhibit A.

11. DRG is the assignee of the '894 patent.

12. The '894 patent covers, among other things, a kit for detecting a disease condition characterized by non-physiological levels of hepcidin.

13. On August 12, 2008, the U.S. Patent and Trademark Office issued U.S. Patent No. 7,411,048, titled “Diagnostic Method for Diseases by Screening for Hepcidin in Human or Animal Tissues, Blood or Body Fluids and Therapeutic Uses Therefor” (“the ’048 patent”). A true and correct copy of the ’048 patent is attached hereto as Exhibit B.

14. DRG is the assignee of the '048 patent.

15. The '048 patent covers, among other things, a kit for detecting a disease condition characterized by non-physiological levels of hepcidin.

1 16. On January 19, 2010, the U.S. Patent and Trademark Office issued
2 U.S. Patent No. 7,649,081, titled “Diagnostic Method for Diseases by Screening for
3 Hepcidin in Human or Animal Tissues, Blood or Body Fluids and Therapeutic Uses
4 Therefor” (“the ’081 patent”). A true and correct copy of the ’081 patent is attached
5 hereto as Exhibit C.

6 17. DRG is the assignee of the ’081 patent.

7 18. The ’081 patent covers, among other things, a kit for detecting a level of
8 a hepcidin precursor.

9 19. On August 16, 2011, the U.S. Patent and Trademark Office issued U.S.
10 Patent No. 7,998,691, titled “Diagnostic Method for Diseases by Screening for
11 Hepcidin in Human or Animal Tissues, Blood or Body Fluids and Therapeutic Uses
12 Therefor” (“the ’691 patent”). A true and correct copy of the ’691 patent is attached
13 hereto as Exhibit D.

14 20. DRG is the assignee of the ’691 patent.

15 21. The ’691 patent covers, among other things, a method for diagnosing
16 hereditary hemochromatosis or chronic renal insufficiency.

17 22. On August 23, 2011, the U.S. Patent and Trademark Office issued U.S.
18 Patent No. 8,003,338, titled “Diagnostic Method for Diseases by Screening for
19 Hepcidin in Human or Animal Tissues, Blood or Body Fluids and Therapeutic Uses
20 Therefor” (“the ’338 patent”). A true and correct copy of the ’338 patent is attached
21 hereto as Exhibit E.

22 23. DRG is the assignee of the ’338 patent.

23 24. The ’338 patent covers, among other things, a method of detecting a
24 level of a hepcidin precursor in a sample from a patient.

25 25. On September 13, 2011, the U.S. Patent and Trademark Office issued
26 U.S. Patent No. 8,017,737, titled “Diagnostic Method for Diseases by Screening for
27 Hepcidin in Human or Animal Tissues, Blood or Body Fluids; Monoclonal

1 Antibodies Specific to Human Hepcidin and Associated Uses Thereof" ("the '737
2 patent"). A true and correct copy of the '737 patent is attached hereto as Exhibit F.

3 26. DRG is the assignee of the '737 patent.

4 27. The '737 patent covers, among other things, an isolated antibody that
5 specifically binds to the amino acid sequence of hepcidin peptides.

6 28. On November 6, 2012, the U.S. Patent and Trademark Office issued
7 U.S. Patent No. 8,304,197, titled "Diagnostic Method for Diseases by Screening for
8 Hepcidin in Human or Animal Tissues, Blood or Body Fluids and Therapeutic Uses
9 Therefor" ("the '197 patent"). A true and correct copy of the '197 patent is attached
10 hereto as Exhibit G.

11 29. DRG is the assignee of the '197 patent.

12 30. The '197 patent covers, among other things, a method of detecting a
13 level of a hepcidin precursor in a sample from a patient.

14 31. On information and belief, Bachem makes and sells to Peninsula in the
15 United States, among other things, the hepcidin peptide intended for use in the
16 Peninsula kits for the detection of hepcidin in humans.

17 32. On its website, Bachem offers for sale Hepcidin-25 (human). A true and
18 correct copy of Bachem's Products webpage is attached hereto as Exhibit H.

19 33. On information and belief, Bachem previously made, used, sold and
20 offered for sale in the United States, among other things, antibodies and kits for the
21 detection of hepcidin in humans.

22 34. On information and belief, Peninsula makes, uses, sells and offers for
23 sale in the United States, among other things, antibodies and kits for the detection
24 of hepcidin in humans.

25 35. On its website, Peninsula offers for sale "Hepcidin-25 (human) -
26 Purified Antiserum; Hepcidin-25 (human) – RIA Kit; Hepcidin-25 (human) – EIA
27 Kit; Peptide Radioimmunassay (RIA) Protocols; and Peptide Enzyme Immunassay

1 (EIA) protocols.” A true and correct copy of Peninsula’s Products webpage is
2 attached hereto as Exhibit I.

3 36. On information and belief, Peninsula has used, sold, and/or offered for
4 sale and continues to use, sell, and/or offer for sale products that infringe,
5 contribute to the infringement, and/or induce the infringement of the DRG patents.

6 **COUNT I**

7 **(Direct Infringement of the '894 Patent)**

8 37. DRG incorporates by reference the factual allegations contained in
9 paragraphs 1 through 36 of this complaint, as if fully set forth herein.

10 38. On information and belief, Defendants have directly infringed and are
11 continuing to directly infringe the '894 patent by manufacturing, using, selling,
12 and/or offering for sale antibodies and kits for the detection of hepcidin in humans
13 (products).

14 39. A true and correct copy of Peninsula’s website dated June 29, 2015
15 evidencing Peninsula’s offering for sale antibodies and kits for the detection of
16 hepcidin in humans is attached hereto as Exhibit I.

17 40. On information and belief, Defendants have committed the
18 aforementioned acts of infringement with full knowledge of the '894 patent and
19 DRG’s rights therein because, among other things, DRG has marked its own kits for
20 the detection of hepcidin in humans identifying the '894 patent. A true and correct
21 copy of the product marking is attached as Exhibit J.

22 41. On information and belief, Defendants have committed the
23 aforementioned acts of infringement with full knowledge of the '894 patent and
24 DRG’s rights therein because, among other things, DRG has sent a letter to
25 Peninsula identifying the '894 patent. A true and correct copy of the DRG letter is
26 enclosed as Exhibit K.

27 42. All of the aforementioned infringing acts by Defendants are without
28 the permission, license, or consent of DRG.

43. All of the aforementioned infringing acts by Defendants have been, and continue to be, willful and deliberate, and DRG believes that such acts will continue in the future unless Defendants are enjoined by this Court.

44. By reason of Defendants' acts of infringement, they have been unjustly enriched.

45. By reason of Defendants' acts of infringement, DRG has suffered and will continue to suffer irreparable harm and damages, including, but not limited to, lost sales and diminution of the value of the '894 patent, in an amount to be determined.

46. As a result of the continuing harm to DRG and the diminution of the value of the '894 patent, DRG has no remedy at law.

COUNT II

(Induced Infringement of the '894 Patent)

47. DRG incorporates by reference the factual allegations contained in paragraphs 1 through 46 of this complaint, as if fully set forth herein.

48. On information and belief, Defendants have induced the infringement and are continuing to induce the infringement of the '894 patent by manufacturing, using, selling, and/or offering for sale antibodies and kits for the detection of hepcidin in humans (products).

49. On information and belief, Defendants intend to cause others to infringe the '894 patent by supplying their customers with infringing products with the knowledge that their customers' actions constitute direct infringement.

50. On information and belief, Defendants' customers are directly infringing and continue to directly infringe the '894 patent by manufacturing, using, selling, and/or offering for sale antibodies and kits for the detection of hepcidin in humans (products) supplied by Defendants.

51. On information and belief, Defendants have committed the aforementioned acts of infringement with full knowledge of the '894 patent and

1 DRG's rights therein because, among other things, DRG has marked its own kits for
2 the detection of hepcidin in humans identifying the '894 patent. A true and correct
3 copy of the product marking is enclosed as Exhibit J.

4 52. On information and belief, Defendants have committed the
5 aforementioned acts of infringement with full knowledge of the '894 patent and
6 DRG's rights therein because, among other things, DRG has sent a letter to
7 Peninsula identifying the '894 patent. A true and correct copy of the DRG letter is
8 attached as Exhibit K.

9 53. All of the aforementioned infringing acts by Defendants and/or others
10 are without the permission, license, or consent of DRG.

11 54. All of the aforementioned infringing acts by Defendants have been,
12 and continue to be, willful and deliberate, and DRG believes that such acts will
13 continue in the future unless Defendants are enjoined by this Court.

14 55. By reason of Defendants' acts of induced infringement, they have been
15 unjustly enriched.

16 56. By reason of Defendants' acts of induced infringement, DRG has
17 suffered and will continue to suffer irreparable harm and damages, including, but
18 not limited to, lost sales and diminution of the value of the '894 patent, in an
19 amount to be determined.

20 57. As a result of the continuing harm to DRG and the diminution of the
21 value of the '894 patent, DRG has no remedy at law.

22 **COUNT III**

23 **(Contributory Infringement of the '894 Patent)**

24 58. DRG incorporates by reference the factual allegations contained in
25 paragraphs 1 through 57 of this complaint, as if fully set forth herein.

26 59. On information and belief, Defendants have contributed to the
27 infringement and are continuing to contribute to the infringement of the '894 patent
28

1 by manufacturing, using, importing, selling, and/or offering for sale antibodies and
2 kits for the detection of hepcidin in humans (products).

3 60. On information and belief, Defendants' customers are directly
4 infringing and continue to directly infringe the '894 patent by manufacturing, using,
5 importing, selling, and/or offering for sale antibodies and kits for the detection of
6 hepcidin in humans (products).

7 61. On information and belief, Defendants' antibodies and kits for the
8 detection of hepcidin in humans (products) are a material part of the '894 patent,
9 and are known by Defendant to be especially made or especially adapted for use in
10 infringement of the '894 patent.

11 62. On information and belief, Defendants' antibodies and kits for the
12 detection of hepcidin in humans (products) have no other substantial non-infringing
13 uses.

14 63. On information and belief, Defendants have committed the
15 aforementioned acts of infringement with full knowledge of the '894 patent and
16 DRG's rights therein because, among other things, DRG has marked its own kits for
17 the detection of hepcidin in humans identifying the '894 patent. A true and correct
18 copy of the product marking is enclosed as Exhibit J.

19 64. On information and belief, Defendants have committed the
20 aforementioned acts of infringement with full knowledge of the '894 patent and
21 DRG's rights therein because, among other things, DRG has sent a letter to
22 Peninsula identifying the '894 patent. A true and correct copy of the DRG letter is
23 attached as Exhibit K.

24 65. All of the aforementioned infringing acts by Defendants and/or others
25 are without the permission, license, or consent of DRG.

26 66. All of the aforementioned infringing acts by Defendants have been,
27 and continues to be, willful and deliberate, and DRG believes that such acts will
28 continue in the future unless Defendant is enjoined by this Court.

67. By reason of Defendants' acts of contributory infringement, they have been unjustly enriched.

68. By reason of Defendants' acts of contributory infringement, DRG has suffered and will continue to suffer irreparable harm and damages, including, but not limited to, lost sales and diminution of the value of the '894 patent, in an amount to be determined.

69. As a result of the continuing harm to DRG and the diminution of the value of the '894 patent, DRG has no remedy at law.

COUNT IV

(Direct Infringement of the '048 Patent)

70. DRG incorporates by reference the factual allegations contained in paragraphs 1 through 69 of this complaint, as if fully set forth herein.

71. On information and belief, Defendants have directly infringed and are continuing to directly infringe the '048 patent by manufacturing, using, selling, and/or offering for sale antibodies and kits for the detection of hepcidin in humans (products).

72. A true and correct copy of Peninsula's website dated June 29, 2015 evidencing Peninsula's offering for sale antibodies and kits for the detection of hepcidin in humans is attached hereto as Exhibit I.

73. On information and belief, Defendants have committed the aforementioned acts of infringement with full knowledge of the '048 patent and DRG's rights therein because, among other things, DRG has marked its own kits for the detection of hepcidin in humans identifying the '048 patent. A true and correct copy of the product marking is attached as Exhibit J.

74. On information and belief, Defendants have committed the aforementioned acts of infringement with full knowledge of the '048 patent and DRG's rights therein because, among other things, DRG has sent a letter to

1 Peninsula identifying the '048 patent. A true and correct copy of the DRG letter is
2 attached as Exhibit K.

3 75. All of the aforementioned infringing acts by Defendants are without
4 the permission, license, or consent of DRG.

5 76. All of the aforementioned infringing acts by Defendants have been,
6 and continue to be, willful and deliberate, and DRG believes that such acts will
7 continue in the future unless Defendants are enjoined by this Court.

8 77. By reason of Defendants' acts of infringement, they have been unjustly
9 enriched.

10 78. By reason of Defendants' acts of infringement, DRG has suffered and
11 will continue to suffer irreparable harm and damages, including, but not limited to,
12 lost sales and diminution of the value of the '048 patent, in an amount to be
13 determined.

14 79. As a result of the continuing harm to DRG and the diminution of the
15 value of the '048 patent, DRG has no remedy at law.

16 **COUNT V**

17 **(Induced Infringement of the '048 Patent)**

18 80. DRG incorporates by reference the factual allegations contained in
19 paragraphs 1 through 79 of this complaint, as if fully set forth herein.

20 81. On information and belief, Defendants have induced the infringement
21 and are continuing to induce the infringement of the '048 patent by manufacturing,
22 using, selling, and/or offering for sale antibodies and kits for the detection of
23 hepcidin in humans (products).

24 82. On information and belief, Defendants intend to cause others to
25 infringe the '048 patent by supplying their customers with infringing products with
26 the knowledge that their customers' actions constitute direct infringement.

27 83. On information and belief, Defendants' customers are directly
28 infringing and continue to directly infringe the '048 patent by manufacturing, using,

1 selling, and/or offering for sale antibodies and kits for the detection of hepcidin in
2 humans (products) supplied by Defendants.

3 84. On information and belief, Defendants have committed the
4 aforementioned acts of infringement with full knowledge of the '048 patent and
5 DRG's rights therein because, among other things, DRG has marked its own kits for
6 the detection of hepcidin in humans identifying the '048 patent. A true and correct
7 copy of the product marking is enclosed as Exhibit J.

8 85. On information and belief, Defendants have committed the
9 aforementioned acts of infringement with full knowledge of the '048 patent and
10 DRG's rights therein because, among other things, DRG has sent a letter to
11 Peninsula identifying the '048 patent. A true and correct copy of the DRG letter is
12 attached as Exhibit K.

13 86. All of the aforementioned infringing acts by Defendants and/or others
14 are without the permission, license, or consent of DRG.

15 87. All of the aforementioned infringing acts by Defendants have been,
16 and continue to be, willful and deliberate, and DRG believes that such acts will
17 continue in the future unless Defendants are enjoined by this Court.

18 88. By reason of Defendants' acts of induced infringement, they have been
19 unjustly enriched.

20 89. By reason of Defendants' acts of induced infringement, DRG has
21 suffered and will continue to suffer irreparable harm and damages, including, but
22 not limited to, lost sales and diminution of the value of the '048 patent, in an
23 amount to be determined.

24 90. As a result of the continuing harm to DRG and the diminution of the
25 value of the '048 patent, DRG has no remedy at law.

26 **COUNT VI**

27 **(Contributory Infringement of the '048 Patent)**

91. DRG incorporates by reference the factual allegations contained in paragraphs 1 through 90 of this complaint, as if fully set forth herein.

92. On information and belief, Defendants have contributed to the infringement and are continuing to contribute to the infringement of the '048 patent by manufacturing, using, importing, selling, and/or offering for sale antibodies and kits for the detection of hepcidin in humans (products).

93. On information and belief, Defendants' customers are directly infringing and continue to directly infringe the '048 patent by manufacturing, using, importing, selling, and/or offering for sale antibodies and kits for the detection of hepcidin in humans (products).

94. On information and belief, Defendants' antibodies and kits for the detection of hepcidin in humans (products) are a material part of the '048 patent, and are known by Defendant to be especially made or especially adapted for use in infringement of the '048 patent.

95. On information and belief, Defendants' antibodies and kits for the detection of hepcidin in humans (products) have no other substantial non-infringing uses.

96. On information and belief, Defendants have committed the aforementioned acts of infringement with full knowledge of the '048 patent and DRG's rights therein because, among other things, DRG has marked its own kits for the detection of hepcidin in humans identifying the '048 patent. A true and correct copy of the product marking is enclosed as Exhibit J.

97. On information and belief, Defendants have committed the aforementioned acts of infringement with full knowledge of the '048 patent and DRG's rights therein because, among other things, DRG has sent a letter to Peninsula identifying the '048 patent. A true and correct copy of the DRG letter is attached as Exhibit K.

98. All of the aforementioned infringing acts by Defendants and/or others are without the permission, license, or consent of DRG.

99. All of the aforementioned infringing acts by Defendants have been, and continues to be, willful and deliberate, and DRG believes that such acts will continue in the future unless Defendant is enjoined by this Court.

100. By reason of Defendants' acts of contributory infringement, they have been unjustly enriched.

101. By reason of Defendants' acts of contributory infringement, DRG has suffered and will continue to suffer irreparable harm and damages, including, but not limited to, lost sales and diminution of the value of the '048 patent, in an amount to be determined.

102. As a result of the continuing harm to DRG and the diminution of the value of the '048 patent, DRG has no remedy at law.

COUNT VII

(Direct Infringement of the '081 Patent)

103. DRG incorporates by reference the factual allegations contained in paragraphs 1 through 102 of this complaint, as if fully set forth herein.

104. On information and belief, Defendants have directly infringed and are continuing to directly infringe the '081 patent by manufacturing, using, selling, and/or offering for sale antibodies and kits for the detection of hepcidin in humans (products).

105. A true and correct copy of Peninsula's website dated June 29, 2015 evidencing Peninsula's offering for sale antibodies and kits for the detection of hepcidin in humans is attached hereto as Exhibit I.

106. On information and belief, Defendants have committed the aforementioned acts of infringement with full knowledge of the '081 patent and DRG's rights therein because, among other things, DRG has marked its own kits for

1 the detection of hepcidin in humans identifying the '081 patent. A true and correct
2 copy of the product marking is attached as Exhibit J.

3 107. On information and belief, Defendants have committed the
4 aforementioned acts of infringement with full knowledge of the '081 patent and
5 DRG's rights therein because, among other things, DRG has sent a letter to
6 Peninsula identifying the '081 patent. A true and correct copy of the DRG letter is
7 attached as Exhibit K.

8 108. All of the aforementioned infringing acts by Defendants are without
9 the permission, license, or consent of DRG.

10 109. All of the aforementioned infringing acts by Defendants have been,
11 and continue to be, willful and deliberate, and DRG believes that such acts will
12 continue in the future unless Defendants are enjoined by this Court.

13 110. By reason of Defendants' acts of infringement, they have been unjustly
14 enriched.

15 111. By reason of Defendants' acts of infringement, DRG has suffered and
16 will continue to suffer irreparable harm and damages, including, but not limited to,
17 lost sales and diminution of the value of the '081 patent, in an amount to be
18 determined.

19 112. As a result of the continuing harm to DRG and the diminution of the
20 value of the '081 patent, DRG has no remedy at law.

21 **COUNT VIII**

22 **(Induced Infringement of the '081 Patent)**

23 113. DRG incorporates by reference the factual allegations contained in
24 paragraphs 1 through 112 of this complaint, as if fully set forth herein.

25 114. On information and belief, Defendants have induced the infringement
26 and are continuing to induce the infringement of the '081 patent by manufacturing,
27 using, selling, and/or offering for sale antibodies and kits for the detection of
28 hepcidin in humans (products).

1 115. On information and belief, Defendants intend to cause others to
2 infringe the '081 patent by supplying their customers with infringing products with
3 the knowledge that their customers' actions constitute direct infringement.

4 116. On information and belief, Defendants' customers are directly
5 infringing and continue to directly infringe the '081 patent by manufacturing, using,
6 selling, and/or offering for sale antibodies and kits for the detection of hepcidin in
7 humans (products) supplied by Defendants.

8 117. On information and belief, Defendants have committed the
9 aforementioned acts of infringement with full knowledge of the '081 patent and
10 DRG's rights therein because, among other things, DRG has marked its own kits for
11 the detection of hepcidin in humans identifying the '081 patent. A true and correct
12 copy of the product marking is enclosed as Exhibit J.

13 118. On information and belief, Defendants have committed the
14 aforementioned acts of infringement with full knowledge of the '081 patent and
15 DRG's rights therein because, among other things, DRG has sent a letter to
16 Peninsula identifying the '081 patent. A true and correct copy of the DRG letter is
17 attached as Exhibit K.

18 119. All of the aforementioned infringing acts by Defendants and/or others
19 are without the permission, license, or consent of DRG.

20 120. All of the aforementioned infringing acts by Defendants have been, and
21 continue to be, willful and deliberate, and DRG believes that such acts will continue
22 in the future unless Defendants are enjoined by this Court.

23 121. By reason of Defendants' acts of induced infringement, they have been
24 unjustly enriched.

25 122. By reason of Defendants' acts of induced infringement, DRG has
26 suffered and will continue to suffer irreparable harm and damages, including, but not
27 limited to, lost sales and diminution of the value of the '081 patent, in an amount to
28 be determined.

123. As a result of the continuing harm to DRG and the diminution of the value of the '081 patent, DRG has no remedy at law.

COUNT IX

(Contributory Infringement of the '081 Patent)

124. DRG incorporates by reference the factual allegations contained in paragraphs 1 through 123 of this complaint, as if fully set forth herein.

125. On information and belief, Defendants have contributed to the infringement and are continuing to contribute to the infringement of the '081 patent by manufacturing, using, importing, selling, and/or offering for sale antibodies and kits for the detection of hepcidin in humans (products).

126. On information and belief, Defendants' customers are directly infringing and continue to directly infringe the '081 patent by manufacturing, using, importing, selling, and/or offering for sale antibodies and kits for the detection of hepcidin in humans (products).

127. On information and belief, Defendants' antibodies and kits for the detection of hepcidin in humans (products) are a material part of the '081 patent, and are known by Defendant to be especially made or especially adapted for use in infringement of the '048 patent.

128. On information and belief, Defendants' antibodies and kits for the detection of hepcidin in humans (products) have no other substantial non-infringing uses.

129. On information and belief, Defendants have committed the aforementioned acts of infringement with full knowledge of the '081 patent and DRG's rights therein because, among other things, DRG has marked its own kits for the detection of hepcidin in humans identifying the '081 patent. A true and correct copy of the product marking is enclosed as Exhibit J.

130. On information and belief, Defendants have committed the aforementioned acts of infringement with full knowledge of the '081 patent and

1 DRG's rights therein because, among other things, DRG has sent a letter to
2 Peninsula identifying the '081 patent. A true and correct copy of the DRG letter is
3 attached as Exhibit K.

4 131. All of the aforementioned infringing acts by Defendants and/or others
5 are without the permission, license, or consent of DRG.

6 132. All of the aforementioned infringing acts by Defendants have been,
7 and continues to be, willful and deliberate, and DRG believes that such acts will
8 continue in the future unless Defendant is enjoined by this Court.

9 133. By reason of Defendants' acts of contributory infringement, they have
10 been unjustly enriched.

11 134. By reason of Defendants' acts of contributory infringement, DRG has
12 suffered and will continue to suffer irreparable harm and damages, including, but
13 not limited to, lost sales and diminution of the value of the '081 patent, in an amount
14 to be determined.

15 135. As a result of the continuing harm to DRG and the diminution of the
16 value of the '081 patent, DRG has no remedy at law.

17 **COUNT X**

18 **(Direct Infringement of the '691 Patent)**

19 136. DRG incorporates by reference the factual allegations contained in
20 paragraphs 1 through 135 of this complaint, as if fully set forth herein.

21 137. On information and belief, Defendants have directly infringed and are
22 continuing to directly infringe the '691 patent by manufacturing, using, selling,
23 and/or offering for sale antibodies and kits for the detection of hepcidin in humans
24 (products).

25 138. A true and correct copy of Peninsula's website dated June 29, 2015
26 evidencing Peninsula's offering for sale antibodies and kits for the detection of
27 hepcidin in humans is attached hereto as Exhibit I.

1 139. On information and belief, Defendants have committed the
2 aforementioned acts of infringement with full knowledge of the '691 patent and
3 DRG's rights therein because, among other things, DRG has marked its own kits for
4 the detection of hepcidin in humans identifying the '691 patent. A true and correct
5 copy of the product marking is attached as Exhibit J.

6 140. On information and belief, Defendants have committed the
7 aforementioned acts of infringement with full knowledge of the '691 patent and
8 DRG's rights therein because, among other things, DRG has sent a letter to
9 Peninsula identifying the '691 patent. A true and correct copy of the DRG letter is
10 attached as Exhibit K.

11 141. All of the aforementioned infringing acts by Defendant are without the
12 permission, license, or consent of DRG.

13 142. All of the aforementioned infringing acts by Defendants have been,
14 and continue to be, willful and deliberate, and DRG believes that such acts will
15 continue in the future unless Defendants are enjoined by this Court.

16 143. By reason of Defendants' acts of infringement, they have been unjustly
17 enriched.

18 144. By reason of Defendants' acts of infringement, DRG has suffered and
19 will continue to suffer irreparable harm and damages, including, but not limited to,
20 lost sales and diminution of the value of the '691 patent, in an amount to be
21 determined.

22 145. As a result of the continuing harm to DRG and the diminution of the
23 value of the '691 patent, DRG has no remedy at law.

COUNT XI

(Induced Infringement of the '691 Patent)

26 146. DRG incorporates by reference the factual allegations contained in
27 paragraphs 1 through 145 of this complaint, as if fully set forth herein.

1 147. On information and belief, Defendants have induced the infringement
2 and are continuing to induce the infringement of the '691 patent by manufacturing,
3 using, selling, and/or offering for sale antibodies and kits for the detection of
4 hepcidin in humans (products).

5 148. On information and belief, Defendants intend to cause others to
6 infringe the '048 patent by supplying their customers with infringing products with
7 the knowledge that their customers' actions constitute direct infringement.

8 149. On information and belief, Defendants' customers are directly
9 infringing and continue to directly infringe the '691 patent by manufacturing, using,
10 selling, and/or offering for sale antibodies and kits for the detection of hepcidin in
11 humans (products) supplied by Defendants.

12 150. On information and belief, Defendants have committed the
13 aforementioned acts of infringement with full knowledge of the '691 patent and
14 DRG's rights therein because, among other things, DRG has marked its own kits for
15 the detection of hepcidin in humans identifying the '691 patent. A true and correct
16 copy of the product marking is enclosed as Exhibit J.

17 151. On information and belief, Defendants have committed the
18 aforementioned acts of infringement with full knowledge of the '691 patent and
19 DRG's rights therein because, among other things, DRG has sent a letter to
20 Peninsula identifying the '691 patent. A true and correct copy of the DRG letter is
21 attached as Exhibit K.

22 152. All of the aforementioned infringing acts by Defendant and/or others
23 are without the permission, license, or consent of DRG.

24 153. All of the aforementioned infringing acts by Defendants have been,
25 and continue to be, willful and deliberate, and DRG believes that such acts will
26 continue in the future unless Defendants are enjoined by this Court.

27 154. By reason of Defendants' acts of induced infringement, they have been
28 unjustly enriched.

1 155. By reason of Defendants' acts of induced infringement, DRG has
2 suffered and will continue to suffer irreparable harm and damages, including, but not
3 limited to, lost sales and diminution of the value of the '691 patent, in an amount to
4 be determined.

5 156. As a result of the continuing harm to DRG and the diminution of the
6 value of the '691 patent, DRG has no remedy at law.

COUNT XII

(Contributory Infringement of the '691 Patent)

9 157. DRG incorporates by reference the factual allegations contained in
10 paragraphs 1 through 156 of this complaint, as if fully set forth herein.

11 158. On information and belief, Defendants have contributed to the
12 infringement and are continuing to contribute to the infringement of the '691 patent
13 by manufacturing, using, importing, selling, and/or offering for sale antibodies and
14 kits for the detection of hepcidin in humans (products).

15 159. On information and belief, Defendants' customers are directly
16 infringing and continue to directly infringe the '691 patent by manufacturing, using,
17 importing, selling, and/or offering for sale antibodies and kits for the detection of
18 hepcidin in humans (products).

19 160. On information and belief, Defendants' antibodies and kits for the
20 detection of hepcidin in humans (products) are for use in practicing a process
21 patented in the '691 patent. Further, Defendants' antibodies and kits for the
22 detection of hepcidin in humans (products) are a material part of the '691 patent,
23 and are known by Defendant to be especially made or especially adapted for use in
24 infringement of the '691 patent.

25 161. On information and belief, Defendants' antibodies and kits for the
26 detection of hepcidin in humans (products) have no other substantial non-infringing
27 uses.

1 162. On information and belief, Defendants have committed the
2 aforementioned acts of infringement with full knowledge of the '691 patent and
3 DRG's rights therein because, among other things, DRG has marked its own kits for
4 the detection of hepcidin in humans identifying the '691 patent. A true and correct
5 copy of the product marking is enclosed as Exhibit J.

6 163. On information and belief, Defendants have committed the
7 aforementioned acts of infringement with full knowledge of the '691 patent and
8 DRG's rights therein because, among other things, DRG has sent a letter to
9 Peninsula identifying the '691 patent. A true and correct copy of the DRG letter is
10 attached as Exhibit K.

11 164. All of the aforementioned infringing acts by Defendants and/or others
12 are without the permission, license, or consent of DRG.

13 165. All of the aforementioned infringing acts by Defendants have been,
14 and continues to be, willful and deliberate, and DRG believes that such acts will
15 continue in the future unless Defendant is enjoined by this Court.

16 166. By reason of Defendants' acts of contributory infringement, they have
17 been unjustly enriched.

18 167. By reason of Defendants' acts of contributory infringement, DRG has
19 suffered and will continue to suffer irreparable harm and damages, including, but
20 not limited to, lost sales and diminution of the value of the '691 patent, in an amount
21 to be determined.

22 168. As a result of the continuing harm to DRG and the diminution of the
23 value of the '691 patent, DRG has no remedy at law.

COUNT XIII

(Direct Infringement of the '338 Patent)

26 169. DRG incorporates by reference the factual allegations contained in
27 paragraphs 1 through 169 of this complaint, as if fully set forth herein.

1 170. On information and belief, Defendants have directly infringed and are
2 continuing to directly infringe the '338 patent by manufacturing, using, selling,
3 and/or offering for sale antibodies and kits for the detection of hepcidin in humans
4 (products).

5 171. A true and correct copy of Peninsula's website dated June 29, 2015
6 evidencing Peninsula's offering for sale antibodies and kits for the detection of
7 hepcidin in humans is attached hereto as Exhibit I.

8 172. On information and belief, Defendants have committed the
9 aforementioned acts of infringement with full knowledge of the '338 patent and
10 DRG's rights therein because, among other things, DRG has marked its own kits for
11 the detection of hepcidin in humans identifying the '338 patent. A true and correct
12 copy of the product marking is attached as Exhibit J.

13 173. On information and belief, Defendants have committed the
14 aforementioned acts of infringement with full knowledge of the '338 patent and
15 DRG's rights therein because, among other things, DRG has sent a letter to
16 Peninsula identifying the '338 patent. A true and correct copy of the DRG letter is
17 attached as Exhibit K.

18 174. All of the aforementioned infringing acts by Defendants are without
19 the permission, license, or consent of DRG.

20 175. All of the aforementioned infringing acts by Defendants have been,
21 and continue to be, willful and deliberate, and DRG believes that such acts will
22 continue in the future unless Defendants are enjoined by this Court.

23 176. By reason of Defendants' acts of infringement, they have been unjustly
24 enriched.

25 177. By reason of Defendants' acts of infringement, DRG has suffered and
26 will continue to suffer irreparable harm and damages, including, but not limited to,
27 lost sales and diminution of the value of the '338 patent, in an amount to be
28 determined.

178. As a result of the continuing harm to DRG and the diminution of the value of the '338 patent, DRG has no remedy at law.

COUNT XIV

(Induced Infringement of the '338 Patent)

179. DRG incorporates by reference the factual allegations contained in paragraphs 1 through 178 of this complaint, as if fully set forth herein.

180. On information and belief, Defendants have induced the infringement and are continuing to induce the infringement of the '338 patent by manufacturing, using, selling, and/or offering for sale antibodies and kits for the detection of hepcidin in humans (products).

181. On information and belief, Defendants intend to cause others to infringe the '338 patent by supplying their customers with infringing products with the knowledge that their customers' actions constitute direct infringement.

182. On information and belief, Defendants' customers are directly infringing and continue to directly infringe the '338 patent by manufacturing, using, selling, and/or offering for sale antibodies and kits for the detection of hepcidin in humans (products) supplied by Defendants.

183. On information and belief, Defendants have committed the aforementioned acts of infringement with full knowledge of the '338 patent and DRG's rights therein because, among other things, DRG has marked its own kits for the detection of hepcidin in humans identifying the '338 patent. A true and correct copy of the product marking is enclosed as Exhibit J.

184. On information and belief, Defendants have committed the aforementioned acts of infringement with full knowledge of the '338 patent and DRG's rights therein because, among other things, DRG has sent a letter to Peninsula identifying the '338 patent. A true and correct copy of the DRG letter is attached as Exhibit K.

185. All of the aforementioned infringing acts by Defendants and/or others are without the permission, license, or consent of DRG.

186. All of the aforementioned infringing acts by Defendants have been, and continue to be, willful and deliberate, and DRG believes that such acts will continue in the future unless Defendants are enjoined by this Court.

187. By reason of Defendants' acts of induced infringement, they have been unjustly enriched.

188. By reason of Defendants' acts of induced infringement, DRG has suffered and will continue to suffer irreparable harm and damages, including, but not limited to, lost sales and diminution of the value of the '338 patent, in an amount to be determined.

189. As a result of the continuing harm to DRG and the diminution of the value of the '338 patent, DRG has no remedy at law.

COUNT XV

(Contributory Infringement of the '338 Patent)

190. DRG incorporates by reference the factual allegations contained in paragraphs 1 through 189 of this complaint, as if fully set forth herein.

191. On information and belief, Defendants have contributed to the infringement and are continuing to contribute to the infringement of the '338 patent by manufacturing, using, importing, selling, and/or offering for sale antibodies and kits for the detection of hepcidin in humans (products).

192. On information and belief, Defendants' customers are directly infringing and continue to directly infringe the '338 patent by manufacturing, using, importing, selling, and/or offering for sale antibodies and kits for the detection of hepcidin in humans (products).

193. On information and belief, Defendants' antibodies and kits for the detection of hepcidin in humans (products) are for use in practicing a process patented in the '338 patent. Further, Defendants' antibodies and kits for the

1 detection of hepcidin in humans (products) are a material part of the '338 patent,
2 and are known by Defendant to be especially made or especially adapted for use in
3 infringement of the '338 patent.

4 194. On information and belief, Defendants' antibodies and kits for the
5 detection of hepcidin in humans (products) have no other substantial non-infringing
6 uses.

7 195. On information and belief, Defendants have committed the
8 aforementioned acts of infringement with full knowledge of the '338 patent and
9 DRG's rights therein because, among other things, DRG has marked its own kits for
10 the detection of hepcidin in humans identifying the '338 patent. A true and correct
11 copy of the product marking is enclosed as Exhibit J.

12 196. On information and belief, Defendants have committed the
13 aforementioned acts of infringement with full knowledge of the '338 patent and
14 DRG's rights therein because, among other things, DRG has sent a letter to
15 Peninsula identifying the '338 patent. A true and correct copy of the DRG letter is
16 attached as Exhibit K.

17 197. All of the aforementioned infringing acts by Defendants and/or others
18 are without the permission, license, or consent of DRG.

19 198. All of the aforementioned infringing acts by Defendants have been,
20 and continues to be, willful and deliberate, and DRG believes that such acts will
21 continue in the future unless Defendant is enjoined by this Court.

22 199. By reason of Defendants' acts of contributory infringement, they have
23 been unjustly enriched.

24 200. By reason of Defendants' acts of contributory infringement, DRG has
25 suffered and will continue to suffer irreparable harm and damages, including, but
26 not limited to, lost sales and diminution of the value of the '338 patent, in an amount
27 to be determined.

201. As a result of the continuing harm to DRG and the diminution of the value of the '338 patent, DRG has no remedy at law.

COUNT XVI

(Direct Infringement of the '737 Patent)

202. DRG incorporates by reference the factual allegations contained in paragraphs 1 through 201 of this complaint, as if fully set forth herein.

203. On information and belief, Defendants have directly infringed and are continuing to directly infringe the '737 patent by manufacturing, using, selling, and/or offering for sale antibodies and kits for the detection of hepcidin in humans (products).

204. A true and correct copy of Peninsula's website dated June 29, 2015 evidencing Peninsula's offering for sale antibodies and kits for the detection of hepcidin in humans is attached hereto as Exhibit I.

205. On information and belief, Defendants have committed the aforementioned acts of infringement with full knowledge of the '737 patent and DRG's rights therein because, among other things, DRG has marked its own kits for the detection of hepcidin in humans identifying the '737 patent. A true and correct copy of the product marking is attached as Exhibit J.

206. On information and belief, Defendants have committed the aforementioned acts of infringement with full knowledge of the '737 patent and DRG's rights therein because, among other things, DRG has sent a letter to Peninsula identifying the '737 patent. A true and correct copy of the DRG letter is attached as Exhibit K.

207. All of the aforementioned infringing acts by Defendants are without the permission, license, or consent of DRG.

208. All of the aforementioned infringing acts by Defendants have been, and continue to be, willful and deliberate, and DRG believes that such acts will continue in the future unless Defendants are enjoined by this Court.

209. By reason of Defendants' acts of infringement, they have been unjustly enriched.

210. By reason of Defendants' acts of infringement, DRG has suffered and will continue to suffer irreparable harm and damages, including, but not limited to, lost sales and diminution of the value of the '737 patent, in an amount to be determined.

211. As a result of the continuing harm to DRG and the diminution of the value of the '737 patent, DRG has no remedy at law.

COUNT XVII

(Induced Infringement of the '737 Patent)

212. DRG incorporates by reference the factual allegations contained in paragraphs 1 through 211 of this complaint, as if fully set forth herein.

213. On information and belief, Defendants have induced the infringement and are continuing to induce the infringement of the '737 patent by manufacturing, using, selling, and/or offering for sale antibodies and kits for the detection of hepcidin in humans (products).

214. On information and belief, Defendants intend to cause others to infringe the '737 patent by supplying their customers with infringing products with the knowledge that their customers' actions constitute direct infringement.

215. On information and belief, Defendants' customers are directly infringing and continue to directly infringe the '737 patent by manufacturing, using, selling, and/or offering for sale antibodies and kits for the detection of hepcidin in humans (products) supplied by Defendants.

216. On information and belief, Defendants have committed the aforementioned acts of infringement with full knowledge of the '737 patent and DRG's rights therein because, among other things, DRG has marked its own kits for the detection of hepcidin in humans identifying the '737 patent. A true and correct copy of the product marking is enclosed as Exhibit J.

1 217. On information and belief, Defendants have committed the
2 aforementioned acts of infringement with full knowledge of the '737 patent and
3 DRG's rights therein because, among other things, DRG has sent a letter to
4 Peninsula identifying the '737 patent. A true and correct copy of the DRG letter is
5 attached as Exhibit K.

6 218. All of the aforementioned infringing acts by Defendants and/or others
7 are without the permission, license, or consent of DRG.

8 219. All of the aforementioned infringing acts by Defendants have been,
9 and continue to be, willful and deliberate, and DRG believes that such acts will
10 continue in the future unless Defendants are enjoined by this Court.

11 220. By reason of Defendants' acts of induced infringement, they have been
12 unjustly enriched.

13 221. By reason of Defendants' acts of induced infringement, DRG has
14 suffered and will continue to suffer irreparable harm and damages, including, but not
15 limited to, lost sales and diminution of the value of the '737 patent, in an amount to
16 be determined.

17 222. As a result of the continuing harm to DRG and the diminution of the
18 value of the '737 patent, DRG has no remedy at law.

COUNT XVIII

(Contributory Infringement of the '737 Patent)

21 223. DRG incorporates by reference the factual allegations contained in
22 paragraphs 1 through 222 of this complaint, as if fully set forth herein.

23 224. On information and belief, Defendants have contributed to the
24 infringement and are continuing to contribute to the infringement of the '737 patent
25 by manufacturing, using, importing, selling, and/or offering for sale antibodies and
26 kits for the detection of hepcidin in humans (products).

27 225. On information and belief, Defendants' customers are directly
28 infringing and continue to directly infringe the '737 patent by manufacturing, using,

1 importing, selling, and/or offering for sale antibodies and kits for the detection of
2 hepcidin in humans (products).

3 226. On information and belief, Defendants' antibodies and kits for the
4 detection of hepcidin in humans (products) are a material part of the '737 patent,
5 and are known by Defendant to be especially made or especially adapted for use in
6 infringement of the '737 patent.

7 227. On information and belief, Defendants' antibodies and kits for the
8 detection of hepcidin in humans (products) have no other substantial non-infringing
9 uses.

10 228. On information and belief, Defendants have committed the
11 aforementioned acts of infringement with full knowledge of the '737 patent and
12 DRG's rights therein because, among other things, DRG has marked its own kits for
13 the detection of hepcidin in humans identifying the '737 patent. A true and correct
14 copy of the product marking is enclosed as Exhibit J.

15 229. On information and belief, Defendants have committed the
16 aforementioned acts of infringement with full knowledge of the '737 patent and
17 DRG's rights therein because, among other things, DRG has sent a letter to
18 Peninsula identifying the '737 patent. A true and correct copy of the DRG letter is
19 attached as Exhibit K.

20 230. All of the aforementioned infringing acts by Defendants and/or others
21 are without the permission, license, or consent of DRG.

22 231. All of the aforementioned infringing acts by Defendants have been,
23 and continues to be, willful and deliberate, and DRG believes that such acts will
24 continue in the future unless Defendant is enjoined by this Court.

25 232. By reason of Defendants' acts of contributory infringement, they have
26 been unjustly enriched.

27 233. By reason of Defendants' acts of contributory infringement, DRG has
28 suffered and will continue to suffer irreparable harm and damages, including, but

1 not limited to, lost sales and diminution of the value of the '737 patent, in an amount
2 to be determined.

3 234. As a result of the continuing harm to DRG and the diminution of the
4 value of the '737 patent, DRG has no remedy at law.

5 **COUNT XIX**

6 **(Direct Infringement of the '197 Patent)**

7 235. DRG incorporates by reference the factual allegations contained in
8 paragraphs 1 through 234 of this complaint, as if fully set forth herein.

9 236. On information and belief, Defendants have directly infringed and are
10 continuing to directly infringe the '197 patent by manufacturing, using, selling,
11 and/or offering for sale antibodies and kits for the detection of hepcidin in humans
12 (products).

13 237. A true and correct copy of Peninsula's website dated June 29, 2015
14 evidencing Peninsula's offering for sale antibodies and kits for the detection of
15 hepcidin in humans is attached hereto as Exhibit I.

16 238. On information and belief, Defendants have committed the
17 aforementioned acts of infringement with full knowledge of the '197 patent and
18 DRG's rights therein because, among other things, DRG has marked its own kits for
19 the detection of hepcidin in humans identifying the '197 patent. A true and correct
20 copy of the product marking is attached as Exhibit J.

21 239. On information and belief, Defendants have committed the
22 aforementioned acts of infringement with full knowledge of the '197 patent and
23 DRG's rights therein because, among other things, DRG has sent a letter to
24 Peninsula identifying the '197 patent. A true and correct copy of the DRG letter is
25 attached as Exhibit K.

26 240. All of the aforementioned infringing acts by Defendants are without
27 the permission, license, or consent of DRG.

241. All of the aforementioned infringing acts by Defendants have been, and continue to be, willful and deliberate, and DRG believes that such acts will continue in the future unless Defendants are enjoined by this Court.

242. By reason of Defendants' acts of infringement, they have been unjustly enriched.

243. By reason of Defendants' acts of infringement, DRG has suffered and will continue to suffer irreparable harm and damages, including, but not limited to, lost sales and diminution of the value of the '197 patent, in an amount to be determined.

244. As a result of the continuing harm to DRG and the diminution of the value of the '197 patent, DRG has no remedy at law.

COUNT XX

(Induced Infringement of the '197 Patent)

245. DRG incorporates by reference the factual allegations contained in paragraphs 1 through 244 of this complaint, as if fully set forth herein.

246. On information and belief, Defendants have induced the infringement and are continuing to induce the infringement of the '197 patent by manufacturing, using, selling, and/or offering for sale antibodies and kits for the detection of hepcidin in humans (products).

247. On information and belief, Defendants intend to cause others to infringe the '197 patent by supplying their customers with infringing products with the knowledge that their customers' actions constitute direct infringement.

248. On information and belief, Defendants' customers are directly infringing and continue to directly infringe the '197 patent by manufacturing, using, selling, and/or offering for sale antibodies and kits for the detection of hepcidin in humans (products) supplied by Defendants.

249. On information and belief, Defendants have committed the aforementioned acts of infringement with full knowledge of the '197 patent and

1 DRG's rights therein because, among other things, DRG has marked its own kits for
2 the detection of hepcidin in humans identifying the '197 patent. A true and correct
3 copy of the product marking is enclosed as Exhibit J.

4 250. On information and belief, Defendants have committed the
5 aforementioned acts of infringement with full knowledge of the '197 patent and
6 DRG's rights therein because, among other things, DRG has sent a letter to
7 Peninsula identifying the '197 patent. A true and correct copy of the DRG letter is
8 attached as Exhibit K.

9 251. All of the aforementioned infringing acts by Defendants and/or others
10 are without the permission, license, or consent of DRG.

11 252. All of the aforementioned infringing acts by Defendants have been,
12 and continue to be, willful and deliberate, and DRG believes that such acts will
13 continue in the future unless Defendants are enjoined by this Court.

14 253. By reason of Defendants' acts of induced infringement, they have been
15 unjustly enriched.

16 254. By reason of Defendants' acts of induced infringement, DRG has
17 suffered and will continue to suffer irreparable harm and damages, including, but not
18 limited to, lost sales and diminution of the value of the '197 patent, in an amount to
19 be determined.

20 255. As a result of the continuing harm to DRG and the diminution of the
21 value of the '197 patent, DRG has no remedy at law.

22 **COUNT XXI**

23 **(Contributory Infringement of the '197 Patent)**

24 256. DRG incorporates by reference the factual allegations contained in
25 paragraphs 1 through 255 of this complaint, as if fully set forth herein.

26 257. On information and belief, Defendants have contributed to the
27 infringement and are continuing to contribute to the infringement of the '197 patent

1 by manufacturing, using, importing, selling, and/or offering for sale antibodies and
2 kits for the detection of hepcidin in humans (products).

3 258. On information and belief, Defendants' customers are directly
4 infringing and continue to directly infringe the '197 patent by manufacturing, using,
5 importing, selling, and/or offering for sale antibodies and kits for the detection of
6 hepcidin in humans (products).

7 259. On information and belief, Defendants' antibodies and kits for the
8 detection of hepcidin in humans (products) are for use in practicing a process
9 patented in the '197 patent. Further, Defendants' antibodies and kits for the
10 detection of hepcidin in humans (products) are a material part of the '197 patent,
11 and are known by Defendant to be especially made or especially adapted for use in
12 infringement of the '197 patent.

13 260. On information and belief, Defendants' antibodies and kits for the
14 detection of hepcidin in humans (products) have no other substantial non-infringing
15 uses.

16 261. On information and belief, Defendants have committed the
17 aforementioned acts of infringement with full knowledge of the '197 patent and
18 DRG's rights therein because, among other things, DRG has marked its own kits for
19 the detection of hepcidin in humans identifying the '197 patent. A true and correct
20 copy of the product marking is enclosed as Exhibit J.

21 262. On information and belief, Defendants have committed the
22 aforementioned acts of infringement with full knowledge of the '197 patent and
23 DRG's rights therein because, among other things, DRG has sent a letter to
24 Peninsula identifying the '197 patent. A true and correct copy of the DRG letter is
25 attached as Exhibit K.

26 263. All of the aforementioned infringing acts by Defendants and/or others
27 are without the permission, license, or consent of DRG.

264. All of the aforementioned infringing acts by Defendants have been, and continues to be, willful and deliberate, and DRG believes that such acts will continue in the future unless Defendant is enjoined by this Court.

265. By reason of Defendants' acts of contributory infringement, they have been unjustly enriched.

266. By reason of Defendants' acts of contributory infringement, DRG has suffered and will continue to suffer irreparable harm and damages, including, but not limited to, lost sales and diminution of the value of the '197 patent, in an amount to be determined.

267. As a result of the continuing harm to DRG and the diminution of the value of the '197 patent, DRG has no remedy at law.

RELIEF SOUGHT:

WHEREFORE, DRG respectfully requests that this Court:

(1) Rule that Defendants' antibodies and kits for the detection of hepcidin in humans (products) infringe, contribute to the infringement, and/or induce the infringement of the '894, '048, '081, '691, '338, '737 and '197 patents;

(2) Grant a preliminary and/or permanent injunction against the continued infringement, contributory infringement, and/or induced infringement of the '894, '048, '081, '691, '338, '737 and '197 patents by Defendants and each of their agents, servants, employees, attorneys, officers, and all others in privity and acting in concert with them;

(3) Order an accounting to determine and assess against Defendants an award to fully compensate DRG for damages arising out of Defendants' infringement, contributory infringement, and/or induced infringement of the '894, '048, '081, '691, '338, '737 and '197 patents;

(4) Order that this case be deemed exceptional under 35 U.S.C. § 285;

(5) Award treble damages against Defendants by reason of the willful and deliberate nature of their infringement;

(6) Award DRG its costs and reasonable attorneys' fees incurred in this action; and

(7) Grant DRG any such other, further, different, or additional relief as this Court deems just, equitable, and proper.

DEMAND FOR JURY TRIAL

DRG demands trial by jury on all issues triable to a jury.

Dated: September 16, 2015

FOX ROTHSCHILD LLP

By /s/ John Shaeffer
John Shaeffer
Jeffrey Grant
Lena N. Bacani
Attorneys for Plaintiff,
DRG INTERNATIONAL, INC.

JURY DEMAND

Plaintiff DRG INTERNATIONAL, INC. hereby demands a jury on all claims so triable.

Dated: September 16, 2015

FOX ROTHSCHILD LLP

By /s/ Lena N. Bacani

John Shaeffer

Lena N. Bacani

Jeffrey Grant

Attorneys for Plaintiff,

DRG INTERNATIONAL, INC.